

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3169 of 1999

with

SPECIAL CIVIL APPLICATION No.3174 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT INDUSTRIAL COOPERATIVEBANK LTD

Versus

INCOME TAX OFFICER WARD (8)

Appearance:

MR NV ANJARIA for Petitioners
MR BB NAIK WITH MR MR BHATT for Resp. No.1 & 2.
MR PRASHANT DESAI FOR for Respondent No. 3
IN SCA NO.3169 OF 1999.
MR RAVINDRA SHAH FOR Respondent No.3 in SCA 3174/99.

CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE A.L.DAVE

Date of decision: 23/08/1999

ORAL JUDGEMENT

1. Rule. Mr. B.B. Naik appears with Mr. M.R. Bhatt and waives service of Rule on behalf of respondents No.1 and 2. Mr. Ravindra Shah appears and waives service on behalf of respondent No.3 in Special Civil Application No.3174 of 1999. Mr. Anjaria states that no effective relief is prayed against respondent No.3. In the facts and circumstances of the case, both the petitions have been taken up today for final hearing.

2. In both the above petitions, a prayer is made for issuance of an appropriate writ, direction or order quashing and setting aside the action of recovery of tax by the respondent authorities. Various contentions were raised at the time of hearing of the petitions. It is, however, not necessary for us to express any opinion one way of the other in view of the fact that against an order passed by the authority, appeals are competent and they are already filed. During the pendency of the appeals, however, even though applications under sub-section (6) of Section 220 have been made, no orders were passed by the Assessing Officer and, on the other hand, coercive recovery was sought to be effected. It was, therefore, submitted that, during the pendency of the appeals and, in any case, till orders are passed in an application under sub-section (6) of Section 220, no action could be taken by the respondents.

3. In Special Civil Application No.3169 of 1999, it was also submitted by the learned counsel for the petitioner that, a substantial amount of more than Rs.44 lakhs have already been recovered.

4. In the facts and circumstances of the case, in our opinion, ends of justice would be met if we direct the authority to dispose of both the appeals as expeditiously as possible, preferably within three months from the receipt of the writ. It is also directed that an appropriate order will be passed by the Assessing Officer in applications filed by the petitioners under sub-section (6) of Section 220 and the said applications will be disposed of by the Assessing Officer expeditiously. If the order will be passed against the petitioner, it will not be implemented for a period of two weeks from the communication of the said order to the petitioner.

5. We may state that as we are disposing of the petitions at this stage, in view of the pendency of appeals, we are not expressing any opinion on merits of the matter and all the contentions are left open. As and when the appeals will be taken up for hearing, it is open

to the parties to take all contentions available. Petitions are accordingly disposed of. Rule is made absolute to the above extent. In the facts and circumstances of the case, no costs.

[C.K. THAKKAR, J.]

[A.L. DAVE, J.]

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